

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,)	
)	
Plaintiff,)	ORDER GRANTING MOTION TO
)	RECONSIDER ORDER OF DETENTION AND
vs.)	SETTING CONDITIONS OF RELEASE
)	
Rod Binger,)	Case No. 1:23-mj-553
)	
Defendant.)	

On October 25, 2023, Defendant filed a Motion to Reconsider Order of Detention. (Doc. No. 14). Therein he renewed his request to be released to his son, Rodney Binger, and reside at his son's residence in Minnesota.

On November 14, 2023, the court issued an order advising that it was inclined to release Defendant provided that Rodney Binger would agree in writing to be Defendant's third-party custodian and advise when he would be able to take custody of Defendant. (Doc. No. 22).

On November 15, 2023, Defendant filed a supplement to his motion. (Doc. No. 23). Therein he advised that Rodney Binger is able to take custody of him on November 16, 2023. Attached the supplement is signed statement in which Rodney Binger affirms that he will take third-party custody of Defendant and acknowledges his responsibilities as a third-party custodian. (Doc. No. 23-1).

The court is persuaded that releasing Defendant to the third-party custody of his son, Rodney Binger, with conditions will adequately ensure the safety of the community. Accordingly, the court **GRANTS** Defendant's motion. (Doc. No. 14). Defendant shall be released to the third-party custody of Rodney Binger no earlier than 11:00 AM on November 16, 2023. Defendant's release is subject to the following conditions:

- (1) Defendant must not violate federal, state, tribal, or local law while on release.
- (2) Defendant must appear in court as required and must surrender to serve any sentence imposed.
- (3) Defendant shall report to the Pretrial Services Officer at such times and in such manner as designated by the Officer.
- (4) Except upon prior approval from the Pretrial Services Officer, Defendant's travel is restricted to the State of North Dakota and Minnesota.
- (5) Defendant shall refrain from: any use of alcohol; any use or possession of a narcotic drug and other controlled substances defined in 21 U.S.C. § 802 or state statute, unless prescribed by a licensed medical practitioner; any use of medical marijuana, and any use of inhalants. Defendant shall submit to drug/alcohol screening at the direction of the Pretrial Services Officer to verify compliance. Failure or refusal to submit to testing or tampering with the collection process or specimen may be considered the same as a positive test result.
- (6) Defendant shall not possess a firearm, destructive device, or other dangerous weapon.
- (7) Defendant shall not knowingly or intentionally have any direct or indirect contact with alleged victim, except that counsel for Defendant, or counsel's agent or authorized representative, may have such contact with such person(s) as is necessary in the furtherance of the defendant's legal defense.
- (8) Defendant shall undergo a substance abuse and/or mental health evaluation if required by the Pretrial Services Officer and comply with resulting counseling or

treatment recommendations.

- (9) Defendant is placed in the third party custody of Rodney Binger, who agrees (1) to supervise Defendant in accordance with all conditions of release, (2) to use every effort to assure the appearance of Defendant at all scheduled court proceedings, and (3) to notify the Pretrial Services Officer immediately in the event Defendant violates any conditions of release or disappears.
- (10) Defendant shall reside with his son, Rodney Binger, and not change this residence without prior approval of the Pretrial Services Officer.
- (11) Defendant must report as soon as possible, to the pretrial services or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.

IT IS SO ORDERED.

Dated this 16th day of November, 2023.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court